

**REMARKS**

Claims 1-19 are pending. Applicants herein amend claim 16.

The Examiner rejected claim 16 under 35 U.S.C. § 112, second paragraph. Applicants have amended this claim to clarify to which item the claim refers.

The Examiner rejected claims 16 and 18 under 35 U.S.C. § 103(a) over Kawasaki (U.S. Patent No. 6,061,887). The Examiner separately rejected claims 16 and 18 under 35 U.S.C. § 103(a) over (U.S. Patent No. 6,425,226). Applicants respectfully traverse these rejections.

As a preliminary matter, the Examiner has failed to make a prima facie case of obviousness. The Examiner has failed to identify any specific sections of the cited references at all, much less an indication of how they can be said to correspond with the features recited by Applicants' claims. Further, the Examiner has asserted that certain features which are not present in the references are nonetheless obvious without making any attempt to cite a reference for this absent knowledge or any motivation to combine this knowledge with the cited references. Even setting aside the failure to support the rejections with a prima facie case however, the cited references are incapable of supporting any proper prior art rejections.

Kawasaki describes placing items on an assembly line in order to efficiently use assembly line workers. Kawasaki describes varying the spacing between different types of workpieces on the assembly line by waiting to place workpieces on the line for an amount of time that is based on how long it takes to perform the desired assembly on a particular type of workpiece. For example, if the assembly line builds two types of automobiles A and B, and an automobile of type A takes twice as long to assemble as an automobile of type B, then an automobile which follows an automobile of type A will be placed twice as far behind the preceding automobile as an automobile which follows one of type B. This is intended to allow the workers more time to work on automobiles of type A and return to the

starting point in time to work on the following automobile with as little downtime as possible.

Kirschner describes assembling soft drinks into six-packs, 12-packs, and other saleable packages as packages are ordered in a way that reduces warehouse storage space requirements. Where previous methods stored drinks in each possible saleable package, Kirschner describes storing each type of drink separately and assembling packages on demand.

In contrast to both Kawasaki and Kirschner, Applicants' technology presents a method of choosing times when an item that is part of an order to be shipped will be retrieved or "picked" from a warehouse to be sent to a sorting location. It is desirable to pick items in such a way that a resource at the sorting location used to assemble the items of an item shipment -- such as a warehouse bin or chute -- is reserved for the item shipment for as little time as possible. One way in which Applicants' technology does this is by selecting times for picking items.

Neither Kawasaki nor Kirschner describe item picking, a sorting location, or a positive selection of a picking time as recited by Applicants' claims. First, Kawasaki does not describe "picking." Each workpiece in Kawasaki is placed on the assembly line from exactly the same starting location. There is no teaching that the workpieces come from differing locations from which they must be "picked." With respect to a sorting location, the Examiner asserts "it is obvious that the assembly location could be categorized as a sorting location if any type of sorting is done at said assembly location." Office Action, p.3. However, it is not clear from either the Examiner's statement or Kawasaki whether any sorting in fact occurs at the assembly location at all. Even if the assembly location were a sorting location, Kawasaki does not contain any teaching of a positive selection of a picking time such that workpieces arrive at the assembly location under any particular constraints, let alone the positive selection of a picking time that "when shifted forward...falls completely within the first period of time" as recited by Applicants' claims.

Selecting a time for placing a workpiece on an assembly line is not the same as selecting a period during which an item should be "picked." Placing a workpiece on the assembly line at a particular time determines how long workers will have to perform assembly tasks on that workpiece, whereas an item's picking time determines how much time it will occupy the sorting location. The assembly line in Kawasaki moves at a fixed speed, so regardless of the time at which a workpiece is placed on the line, it will occupy the line for the same amount of time.

Likewise, Kirschner does not describe picking according to a specified time range. The items in Kirschner are stored on pallets which are used to refill elevators containing each item. Items are then moved from the elevators to a conveyor at the same time, and only the level of the elevators is varied in order to produce the desired mix of drinks for packaging. The Examiner asserts "[i]t is obvious that at least one subsequent picked item and its pick period, when subtracting out the traveling time to said sorting location, would fall completely within the first period of the first-picked item, based on at least coincidental occurrence." Even assuming *arguendo* that the items in Kirschner were in fact picked in order to arrive at a sorting location, it is not sufficient that they do so in a time according to random occurrence. Applicants' claims recite a positive selecting step for selecting picking times so as to establish a specific relationship between a first picked item's picking time and that of subsequent items. Claim 16 recites "selecting a first period of time" and "designating a picking period...that, when shifted forward in time by an amount of time the item other than the first-picked item will take to arrive at the sorting location once picked, falls completely within the first period of time."

Neither Kawasaki or Kirschner teach each of the elements recited by Applicants' claims discussed above. Therefore, Applicants respectfully request that these rejections be withdrawn.

Accordingly, Applicants believe the pending application is in condition for allowance and request reconsideration and a prompt notice of allowance.

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Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0665, under Order No. 249768075US from which the undersigned is authorized to draw.

Dated: *11/28/05*

Respectfully submitted,

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